

REMARKS

In view of the above amendments and the following remarks, reconsideration and further examination are respectfully requested.

Status of all of the Claims

Below is the status of the claims in this Application.

1. Claim(s) pending: 1-17.
2. Claim(s) cancelled: 18-33.
3. Claim(s) added: None.
4. Claim(s) withdrawn from consideration but not cancelled: None.

Applicants have cancelled the non-elected claims 18-33 without prejudice to the future filing of a divisional application.

It is believed that the above-identified claims are supported by the application as originally filed.

Claim Rejections

Rejection of Claims 1-17 Under 35 USC 102(b)

In item 4 of the Office Action, claims 1-17 were rejected under 35 USC 102(b) as being anticipated by Hunter et al. (US Patent 4,163,643). It is believed that claims 1-17 are allowable over the references of record.

In the Office Action, it is alleged that Hunter discloses a transport unit comprising a piezoelectric element. However, as described for example at column 6, lines 29 to 45 of the Hunter patent, the system comprises a vibratory module including two spiral vibratory track conveyors 2 and 3 located above one another but held apart by vertical

members 1. The track conveyors are provided with a circularly oscillating vibratory motion by means of an electromagnet 6 mounted on pillars 8 which are fixed to a base plate 5. The electromagnet is energized by an oscillating current and cooperates with a soft iron block 7 mounted on the base of the lower spiral track 3 in such a way that a vertical excitation movement is transmitted to the tracks. Due to the constrained movement of the leaf springs 4, the tracks are drawn back and an oscillatory motion is realized. In other words, an oscillatory motion is based on the force of an electromagnet in a first direction and a second force caused by the springs 4. Consequently, to execute an oscillatory movement, a complex drive unit comprising an electromagnet and springs is used. In contrast to Hunter, the claimed analytical systems and methods comprise a piezoelectric element to realize a transport of a test element. A piezoelectric element is described on page 11 of Applicants' specification which refers additionally to literature incorporated by reference which relates to piezoelectric elements. Thus, it is believed that Hunter fails to disclose Applicants' analytical systems and methods including a transport unit comprising a piezoelectric element as claimed in Applicants' claims 1-17, and thus, these claims are not anticipated by Hunter.

For these and other reasons, claims 1-17 are believed to be allowable over the references of record.

Rejection of Claims 1-17 Under 35 USC 103(a)

In item 8 of the Office Action, claims 1-17 were rejected under 35 USC 103(a) as being unpatentable over Ishizaka et al. (US Patent 5,077,010) in view of Kitamoto et al. (US Patent 4,875,610). It is believed that claims 1-17 are allowable over the references of record.

The Ishizaka reference discloses a test film cassette which is used in a laboratory system, but the reference does not address specific technical solutions to transport the test film. The Kitamoto reference relates to the transport of a video tape, and thus relates to a different technical field which is wholly unrelated to Applicants' claimed analytical systems and methods. As Applicants state near the bottom of page 11 of their

specification, the general principle of a piezoelectric drive is known per se. However, none of the cited references, including the Ishizaka and Kitamoto references, teaches or would lead or motivate a person of ordinary skill in the art to integrate a piezoelectric drive unit into an analytical system for a direct or indirect transport of a test element. Several advantages are realized by integrating a piezoelectric element into an analytical system as claimed by Applicants. For example, as described on page 9 of Applicants' specification, an integration of a piezoelectric motor enables a flexible and comfortable automatic handling of test elements whereby the motor noise is substantially reduced. Moreover, since Applicants' claims call for a piezoelectric element as part of the transport unit, lubricant deposits can be avoided, and this permits a compact design of the analytical system in which the test elements and transport unit are arranged spatially next to one another without impairing the quality of the stored test elements. Further, due to the defined frictional force of the piezoelectric system, a precise positioning of the test element relative to an analytical unit (e.g., an optic) can be realized in an easy way. These advantages are described on page 11 of Applicants' specification, and it's clear that these advantages and several synergistic technical benefits are realized by Applicants' claimed analytical systems and methods as set forth in claims 1-17.

For these and other reasons, claims 1-17 are believed to be allowable over the combination of Ishizaka and Kitamoto and the references of record.

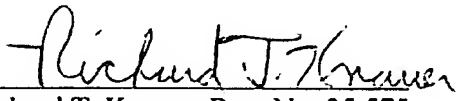
Conclusion

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the Office Action in the most expedient fashion. In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice of allowance is earnestly solicited.

If after reviewing this response the Examiner feels that any issues remain which must be resolved before the Application can be passed to issue, the Examiner is invited to contact the undersigned representative by telephone to resolve such issues.

Respectfully submitted,

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